

IN RE: PETITION FOR ZONING VARIANCE
E/S Nunnery Lane, 608' NW of
Frederick Road
(103 Nunnery Lane)
1st Election District
1st Councilmanic District
William J. Benbow, Jr., et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-358-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a recreational vehicle to be situated in the front yard in lieu of the required 8 feet to the rear of the front foundation line of the dwelling in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. The following persons appeared and testified as Protestants in the matter: Robert Davis, President, Paradise Community Association; Terry Seth; and Elaine Weavering.

Testimony indicated that the subject property, known as 103 Nunnery Lane, consists of .136 acres more or less zoned D.R. 10.5, and is improved with a two-story brick semi-detached dwelling with an attached single car garage addition. As a result of a complaint filed, Petitioners request the instant variance to allow them to park their motorhome in the existing driveway located in the front yard. Testimony indicated the rear yard requirement would involve the loss of existing large trees and a portion of the side and front lawns. Further testimony indicated strict compliance with the zoning regulations would result in practical difficulty and hardship.

The Protestants testified in opposition to the variance indicating to grant the relief requested would set a precedent and result in additional parking problems in the community. To support their position

the Protestants submitted a Petition, identified herein as Protestant's Exhibit 1, which had been signed by various residents in the area requesting disapproval of the requested variance. In further support of their opposition, Protestants submitted photographs, identified herein as Protestant's Exhibits 2A through 2H.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented and following a site inspection of the subject property and surrounding community, there is insufficient evidence to allow a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variance were denied. The testimony presented by Petitioners was in support of a matter of preference rather than of the necessity for the variance. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

- 2 -

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 18th day of April, 1989 that the Petition for Zoning Variance to permit a recreational vehicle to be situated in the front yard in lieu of the required 8 feet to the rear of the front foundation line of the dwelling in accordance with Petitioner's Exhibit 1, be and the same is hereby DENIED.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

ORDER FOR FILING
D-9
4/18/89
By: *Terry Seth*

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

April 18, 1989



Dennis F. Rasmussen
County Executive

Mr. & Mrs. William J. Benbow, Jr.
103 Nunnery Lane
Catonsville, Maryland 21228

RE: PETITION FOR ZONING VARIANCE
E/S Nunnery Lane, 608' NW of Frederick Road
(103 Nunnery Lane)
1st Election District - 1st Councilmanic District
William J. Benbow, Jr., et ux - Petitioners
Case No. 89-358-A

Dear Mr. & Mrs. Benbow:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal with the Board of Appeals within thirty (30) days of the date of this decision. For further information on filing an appeal, please contact Charlotte Radcliffe at 494-3391.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Mr. Robert Davis, President
Paradise Community Association
12 and 1/2 Edmondson Ridge Road, Baltimore, Md. 21228

Mr. Terry Seth
101 Nunnery Lane, Baltimore, Md. 21228

Ms. Elaine Weavering
34 Nunnery Lane, Baltimore, Md. 21228

People's Counsel

File

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 415.A.1. To allow a recreational vehicle to be situated in the front yard in lieu of the required 8 feet to the rear of the front foundation line of the dwelling.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

1. Practical difficulty

(See Enclosed Paper Drawing)

To park my motorhome at least 8 ft behind my front foundation line would be a practical difficulty because we have large trees in the side yard. Also would be difficult to angle driveway and also destroy grass in front & side yards.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Address

City and State

Attorney's Telephone No.:

Address

City and State

Attorney's Telephone No.:

Address

City and State

Attorney's Telephone No.:

Address

LEGAL OWNER(S):
William J. Benbow, Jr.
(Type or Print Name)
William J. Benbow, Jr.
Signature
Diann L. Benbow
(Type or Print Name)
Diann L. Benbow
Signature

MAP 202E
2A
DATE 4/17/89
200
1000
DP

DESCRIPTION OF 103 NUNNERY LA.

BEING A TRACT OF LAND IN THE CENTER LINE OF NUNNERY LANE
2.2 FEET WIDE
BEING A TRACT OF LAND 608.01 FT NORTHWEST OF FREDERICK RD.
THENCE NORTH 17.23 FEET THEN N.W. 31.2 FT THEN NORTH
WEST 66.34 FT THEN SOUTH EAST 30 FT THEN SOUTH WEST 19 FEET
THEN SOUTH EAST 35.18 FT TO THE POINT OF BEGINNING BEING
THENCE ONE HUNDRED TWO OF THE SECTION KNOWN AS 103 NUNNERY LANE.

OWNERS WILL TAKE FULL RESPONSIBILITY
AS TO THE INFORMATION PROVIDED ON
SAID PLAT PREPARED BY BALTO. CO.
Diann L. Benbow 4/17/89
OWNER DATE
OWNER DATE

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: *103 Nunnery Lane*
Posted for: *Diann L. Benbow*
Petitioner: *William J. Benbow, Jr. et ux*
Location of property: *103 Nunnery Lane*
Location of Sign: *103 Nunnery Lane*
Remarks: *See map on property of B. H. Haines*
Posted by: *J. Robert Haines* Date of return: *3/24/89*
Number of Signs: *1*

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed Variance from Section 415.A.1. To allow a recreational vehicle to be situated in the front yard in lieu of the required 8 feet to the rear of the front foundation line of the dwelling.

Variance: To allow a recreational vehicle to be situated in the front yard in lieu of the required 8 feet to the rear of the front foundation line of the dwelling.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed Variance from Section 415.A.1. To allow a recreational vehicle to be situated in the front yard in lieu of the required 8 feet to the rear of the front foundation line of the dwelling.

Variance: To allow a recreational vehicle to be situated in the front yard in lieu of the required 8 feet to the rear of the front foundation line of the dwelling.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

Office of PATUXENT Publishing Company

1070 Little Patuxent Pkwy
Columbia, MD 21044

THIS IS TO CERTIFY, that the annexed advertisement of

was inserted in the following: X THE JEFFERSONIAN
☒ Catonsville Times
☐ Arbutus Times
☐ Reporter Weekly
☐ Booster Weekly
☐ Owings Mills Flier
☐ Towson Flier

weekly newspapers published in Baltimore County, Maryland once a week for successive weeks before the day of 1989, that is to say, the same was inserted in the issues of

February 16, 1989

PATUXENT PUBLISHING COMPANY

By: *S. Rebe Orlow*

PO 09759

reg M25264

plus \$64.69

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: *1st*
Posted for: *Variance*
Petitioner: *William J. Benbow, Jr. et ux*
Location of property: *103 Nunnery Lane*
Location of Sign: *In front of 103 Nunnery Lane*

Remarks: *See map on property of B. H. Haines*
Posted by: *J. Robert Haines* Date of return: *February 17, 1989*
Number of Signs: *1*

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

February 27, 1989

NOTICE OF REASSIGNMENT



Dennis F. Rasmussen
County Executive

CASE NUMBER 89-358-A
PETITIONER(S) William J. Benbow, Jr., et ux
LOCATION 103 Nunnery Lane

THE ABOVE MATTER, 'ORIGINALLY SCHEDULED TO BE HEARD ON March 8, 1989, HAS BEEN REASSIGNED. THE NEW HEARING DATE IS Thursday, April 6, 1989 at 2:00 p.m.

J. ROBERT HAINES
ZONING COMMISSIONER OF BALTIMORE COUNTY

COPIES TO:

Mr. & Mrs. Benbow

Terry Seth

File

ORDER RECEIVED FOR FILING
D-9
4/18/89
By: *Terry Seth*

LENGTH OF HEARING 1/2 hr.

DATE 4/17/89

REVIEWED BY: *JRH*

DATE 12/21/88

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Date: 4.3.89

Mr. & Mrs. William J. Benbow, Jr.
103 Nunmery Lane
Catonville, Maryland 21228

Re: Petition for Zoning Variance
Case Number 89-358-A
Hearing: Wednesday, March 8, 1989 at 2:00 p.m.

Dear Petitioners:

Please be advised that \$79.69 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THIS ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring to the County Office minutes before the hearing.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 087546
DATE 4-1-89 ACCOUNT 201-615-000
AMOUNT \$ 77.67
RECEIVED BY: D.L. Benbow
FROM: Petitioners & Advertising (\$79.35 + \$1.10)
FOR: 8107*****75833 JCL:f
SIGNATURE OF CASHIER: [Signature]
VALIDATION OR SIGNATURE OF CASHIER

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

February 6, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 89-358-A
E/S Nunmery Lane, 608' NW Frederick Road
103 Nunmery Lane
1st Election District - 1st Councilmanic
Petitioner(s): William J. Benbow, Jr., et ux
HEARING SCHEDULED: WEDNESDAY, MARCH 8, 1989 at 2:00 p.m.

Variance to allow a recreational vehicle to be situated in the front yard in lieu of the required 8 feet to the rear of the front foundation line of the dwelling.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Mr. & Mrs. Benbow, Jr.
Terry Seth
File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: James Dyer
Zoning Supervisor Date: 4/3/89
FROM: James Thompson
Zoning Enforcement Coordinator
Item No.: 262 (if known)
SUBJECT: Petitioner: (if known)

VIOLATION CASE # 89-476
LOCATION OF VIOLATION 103 Nunmery Lane 21228
DEFENDANT Mrs. Benbow ADDRESS Same

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME ADDRESS
Terry Seth 101 Nunmery Lane
2/22/8

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

PETITION FOR NON-VARIANCE OF ZONING

TO: THE COUNTY OF BALTIMORE

THE PURPOSE OF THIS PETITION IS TO SUPPORT THE DISAPPROVAL OF A VARIANCE TO PERMIT THE PARKING OF LARGE RECREATIONAL VEHICLES (RV) IN DRIVEWAYS. SPECIFICALLY, THE RESIDENTS AT 103 NUNMERY LANE HAVE REQUESTED THE VARIANCE OF PARKING THEIR EXTREMELY LARGE RV IN THEIR DRIVEWAY. WE DO NOT WANT THEM TO BE PERMITTED TO DO SO; AS IT WILL HAVE AN ADVERSE AFFECT ON THE PROPERTY VALUE, LANDSCAPE APPEARANCE, PARKING, AND OVERALL DESIGN OF A RESIDENTIAL NEIGHBORHOOD. ALLOWING THE VARIANCE WOULD ESTABLISH A PRECEDENT THAT WOULD TRANSFORM OUR NEIGHBORHOOD FROM A RESIDENTIAL NEIGHBORHOOD TO THE APPEARANCE OF AN RV PARK.

WE BELIEVE THAT THE CURRENT ZONING WAS ESTABLISHED TO PROTECT OUR RESIDENTIAL RIGHTS, AND, THEREFORE SHOULD NOT BE AMENDED.

WE THE UNDERSIGNED, AS OWNERS, TAXPAYERS, AND VOTERS URGE YOU NOT TO APPROVE THE VARIANCE REQUEST.

SIGNED:

Dave & Elaine Mearns 34 Nunmery Ln.
Rick & Lisa Collier 32 Nunmery Lane
Chris Sepp 100 Nunmery Lane
Mary & John Flanagan 47 Nunmery Lane
Sally & Nancy Patton 47 Nunmery Lane
Mr. Carey 32 Nunmery Lane
Mrs. W. Benbow 20 Nunmery Lane
Carolyn J. Carroll 12 Nunmery Lane
Thomas Wynn 16 Nunmery Lane
Gerald & Ruth 104 Nunmery Lane
Susan & Robert 106 Nunmery Lane
Mrs. J. Set 101 Nunmery Lane
Robert K. Housh 101 Nunmery Lane

PROTESTANT'S
EXHIBIT 1

PETITION FOR NON-VARIANCE OF ZONING

TO: THE COUNTY OF BALTIMORE

THE PURPOSE OF THIS PETITION IS TO SUPPORT THE DISAPPROVAL OF A VARIANCE TO PERMIT THE PARKING OF LARGE RECREATIONAL VEHICLES (RV) IN DRIVEWAYS. SPECIFICALLY, THE RESIDENTS AT 103 NUNMERY LANE HAVE REQUESTED THE VARIANCE OF PARKING THEIR EXTREMELY LARGE RV IN THEIR DRIVEWAY. WE DO NOT WANT THEM TO BE PERMITTED TO DO SO; AS IT WILL HAVE AN ADVERSE AFFECT ON THE PROPERTY VALUE, LANDSCAPE APPEARANCE, PARKING, AND OVERALL DESIGN OF A RESIDENTIAL NEIGHBORHOOD. ALLOWING THE VARIANCE WOULD ESTABLISH A PRECEDENT THAT WOULD TRANSFORM OUR NEIGHBORHOOD FROM A RESIDENTIAL NEIGHBORHOOD TO THE APPEARANCE OF AN RV PARK.

WE BELIEVE THAT THE CURRENT ZONING WAS ESTABLISHED TO PROTECT OUR RESIDENTIAL RIGHTS, AND, THEREFORE SHOULD NOT BE AMENDED.

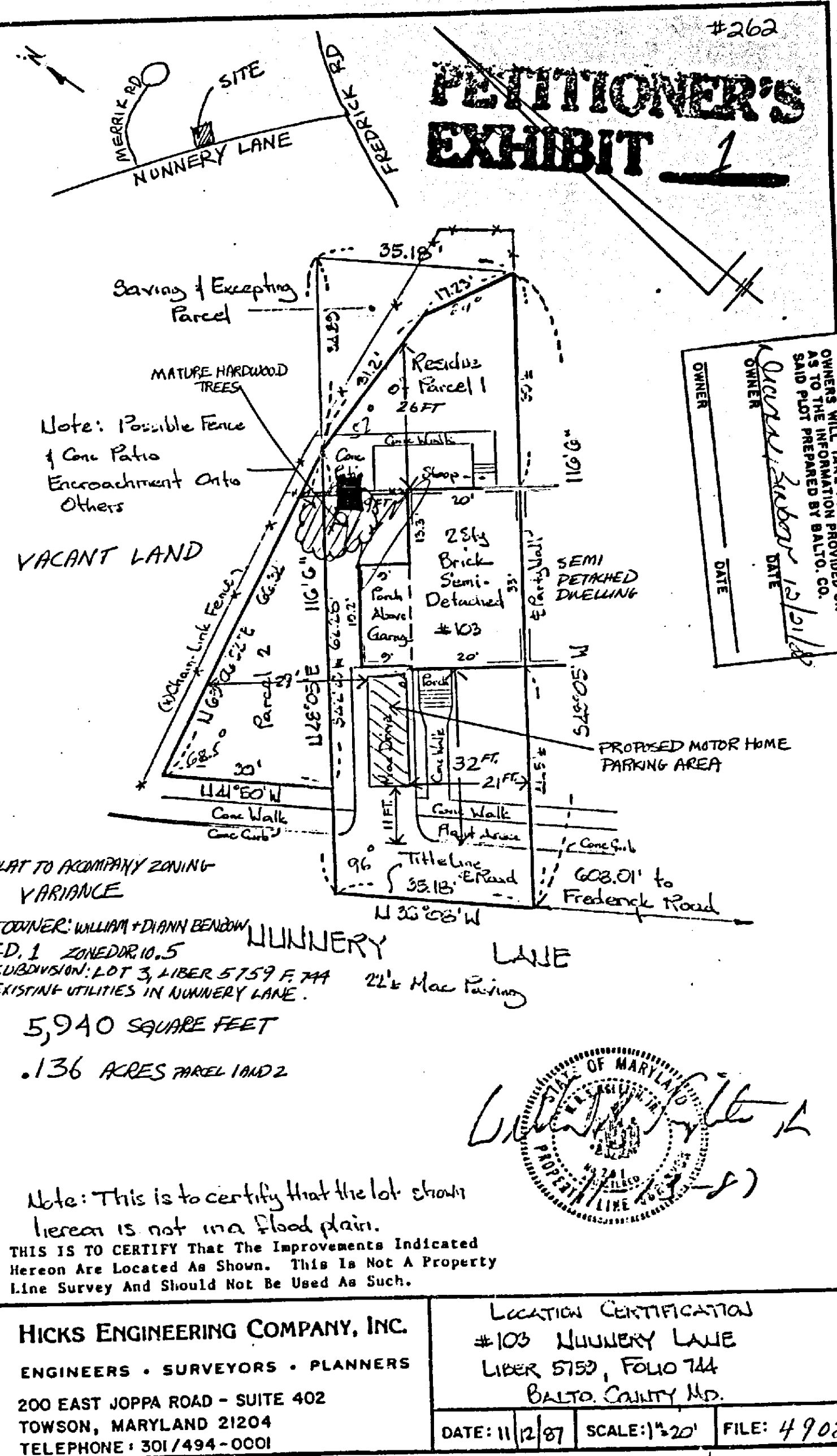
WE THE UNDERSIGNED, AS OWNERS, TAXPAYERS, AND VOTERS URGE YOU NOT TO APPROVE THE VARIANCE REQUEST.

SIGNED:

Mary E. Lyley 37 Nunmery Lane
Elizabeth Brackley 35 Nunmery Lane
Ray S. Day 141 Nunmery Lane

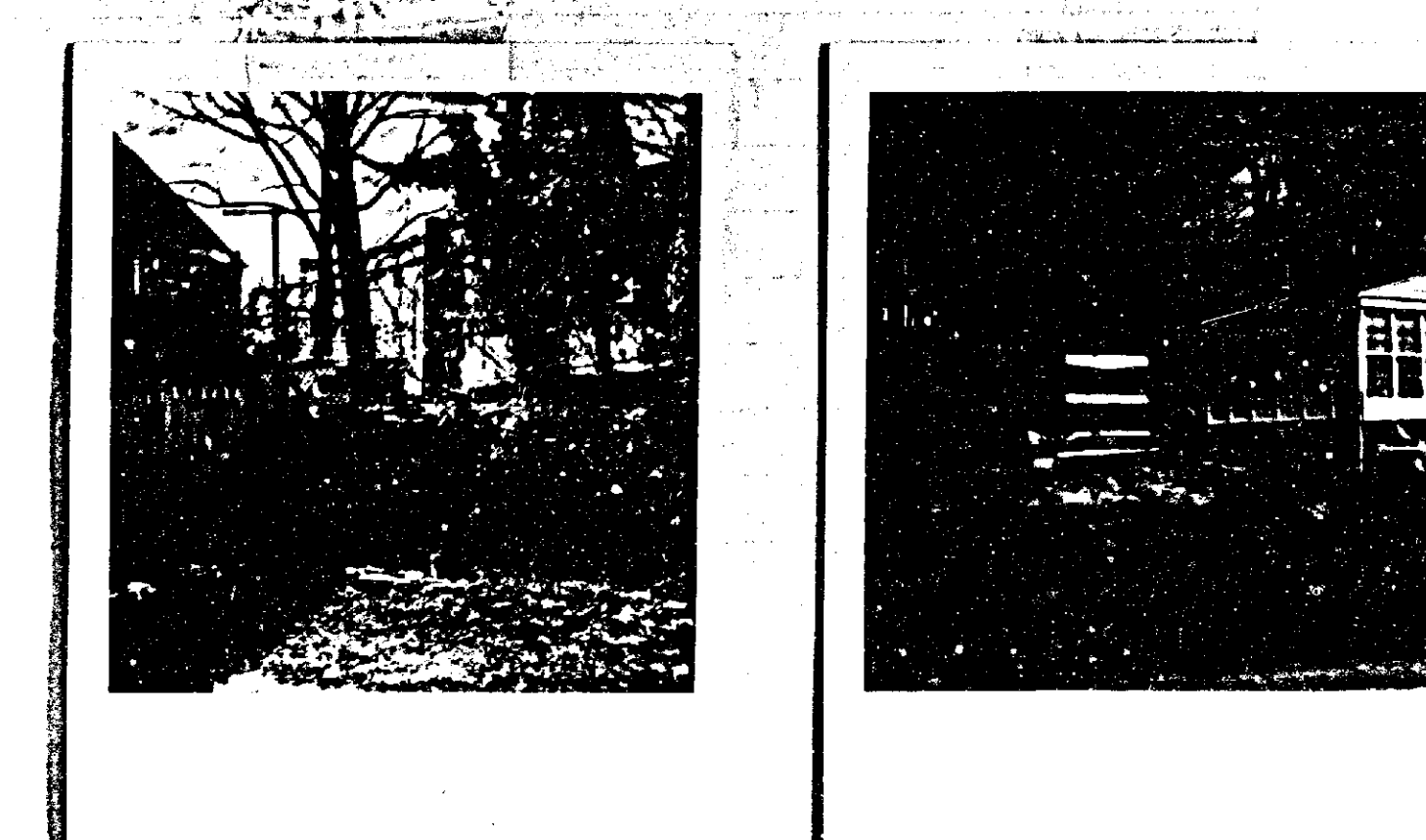
PROTESTANT(S) SIGN-IN SHEET

NAME ADDRESS
Terry Seth 34 Nunmery Ln. Baltimore MD 21228
Robert Davis 101 Nunmery Lane
12-1/2 Edmondson Ridge Rd



TO: BOB
FROM: DEREK
RE: 89-358A 103 Nunmery Lane

Attached are two photographs of the property showing current placement of the RV. In the first, taken from the rear, the alley's termination is clearly depicted by the brick wall. The property known as 101 Nunmery completely blocks access by 103 to the alley. The second shows current placement of the RV. Placement was achieved by jumping the curb and driving over the lawn.



89-358-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
4th day of January, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner William J. Benbow
Petitioner's
Attorney

Received by: James E. Dyer
Chairman, Zoning Plans
Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 27, 1989

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

ofo

MEMBERS

Bureau of
Engineering
Department of
Traffic Engineering
State Roads Commission
Bureau of
Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial
Development

Mr. William J. Benbow, Jr.
103 Nunnery Lane
Catonsville, MD 21228

RE: Item No. 262, Case No. 89-358-A
Petitioner: William J. Benbow, Jr. et ux
Petition for Zoning Variance

Dear Mr. Benbow:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

January 12, 1989

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204



Dennis F. Rasmussen
County Executive

Re: Property Owner: Wm. J. Benbow, Jr., et ux

Location: E/S Nunnery La., 608' NW of Frederick Road

Item No.: 262

Zoning Agenda: Meeting of 1/3/89

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____
EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- () 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- (x) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Capt. Joseph Kelly* 1-16-89
Planning Group
Special Inspection Division

NOTED &
APPROVED: *John F. O'Neill*
Fire Prevention Bureau

/j1

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: January 24, 1989
FROM: Robert W. Bowling, P.E.
RE: Meeting of January 3, 1989

The Developers Engineering Division has reviewed the zoning items for the subject meeting. We have no comments for Items 210, 259, 261, 262, 263, and 265.

For Item 260, The Trustees of Mount Carmel Methodist Episcopal Church the following comment applies:

Mt. Carmel Road is a State Road. Prettyboy Dam Road is an existing County road, which shall ultimately be improved as a 40-foot cross-section on a 60-foot right-of-way. The property owner is responsible to dedicate the right-of-way and necessary slope easements, at no cost to the County.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

Encls.